



August 2, 2017

MEMORANDUM

To: Kathleen Guith
Associate General Counsel

Jeff S. Jordan
Assistant General Counsel

AUDIT REFERRAL

17-05

Through: Alec Palmer
Staff Director

From: Patricia C. Orrock
Chief Compliance Officer

Patricia C. Orrock

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By: Mary Moss
Lead Auditor

Subject: Colorado Republican Committee (A13-12) - Referral Matters

On July 19, 2017, the Commission approved the Proposed Final Audit Report on the Colorado Republican Committee. The report was released to the public on July 31, 2017. In accordance with the Materiality Thresholds for Unauthorized Committees, the Final Audit Report of the Commission includes findings that meet the criteria for referral to the Office of General Counsel.

Finding 1B – Misstatement of Financial Activity – Original Reports Filed:
Amount in Violation \$803,097 – Receipts and \$637,688 - Disbursements;
Calendar Years 2011/2012.

Finding 2B – Reporting of Apparent Independent Expenditures/ Failure to File
24/48-Hour Reports: Amount in Violation “at least \$694,682” and “at least 51
mailers”; Calendar Year 2012.

**Finding 4 – Failure to Itemize Debts and Obligations: Amount in Violation
\$133,487; Calendar Year 2012.**

**All workpapers and related documentation are available for review in the Audit Division.
Should you have any questions regarding these matters, please contact Mary Moss or Zuzana
Pacious at 694-1200.**

**Attachments: Finding 1B – Misstatement of Financial Activity – Original Reports Filed
Finding 2B - Reporting of Apparent Independent Expenditures/Failure to File
24/48-Hour Reports
Finding 4 – Failure to Itemize Debts and Obligations**

1-0317-12-15-15-0001

Finding 1B. Misstatement of Financial Activity – Original Reports Filed

Summary

A comparison of CRC's bank activity with its most recent amended reports prior to the audit revealed material misstatements in both 2011 and 2012. In addition, a comparison of CRC's bank activity with its original reports for 2011 and 2012 also revealed material misstatements. In response to the Interim Audit Report recommendation, CRC stated that the misstatements were inadvertent and agreed to file amendments to the relevant reports. CRC subsequently amended its reports to materially correct the misstatements identified for 2011. In response to the Draft Final Audit Report, CRC filed amended reports and materially corrected the misstatements for 2012. However, CRC has not made an adjustment to reconcile the cash balance on its most recent report.

The Commission approved a finding that CRC misstated its financial activity for calendar years 2011 and 2012. The Commission further approved a finding that CRC materially misstated its financial activity in its original reports files for calendar years 2011 and 2012.

The Commission did not approve by the required four votes the portion of the Audit staff's recommendation related to the Republican National Convention Expense Account. As such, this portion of the finding is presented in the "Additional Issue" section.

Legal Standard

Contents of Reports. Each report must disclose:

- The amount of cash-on-hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the calendar year;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104(b)(1), (2), (3), (4) and (5).

B. Misstatement of Financial Activity – Original Reports Filed

1. Facts

During audit fieldwork, in addition to examining CRC's most recent reports filed prior to audit notification, the Audit staff compared CRC's originally filed reports with its bank records. The purpose of this additional reconciliation was to identify the degree to which CRC had misstated its original filings.

The Audit staff calculated that CRC understated the sum of the reported receipts on the original reports filed by \$803,097 and the sum of the reported disbursements on the original reports filed by \$637,688 over the two-year period (2011-2012). These figures include the \$4,728 and \$38,529 understatement of receipts and disbursements,

respectively from 2011, and the \$210,996 and \$145,201¹ of the understatement of receipts and disbursements, respectively, from 2012 discussed in Section A above (Misstatement of Financial Activity – Most Recent Reports Filed Prior to the Audit).

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the understatement of receipts and disbursements on its original reports during the exit conference and provided copies of relevant schedules detailing the receipts and disbursements not reported. CRC representatives asked questions for clarification, and stated they understood the finding, but related that they inadvertently filed incorrect original reports.

The Interim Audit Report recommended that CRC provide any additional comments it deemed necessary with respect to this matter.

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report recommendation, CRC stated it agreed with the Audit staff's recommendations regarding Finding 1B but provided no further comments.

4. Draft Final Audit Report

The Draft Final Audit Report acknowledged that CRC materially misstated its financial activity for the original reports filed.

5. Committee Response to the Draft Final Audit Report

In its response to the Draft Final Audit Report, CRC restated that it agreed with the Audit staff's recommendation regarding Finding 1B and provided no further comments.

6. Audit Hearing

CRC did not address this finding during the Audit hearing.

Commission Conclusion

On May 25, 2017, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CRC materially misstated its financial activity in its original reports filed for calendar years 2011 and 2012.

The Commission approved the Audit staff's recommendation.

¹ Net disbursement adjustments identified in Section A above (Misstatement of Financial Activity - Most Recent Reports Filed Prior to the Audit), totaling \$9,686, were correctly disclosed on the original reports in 2012.

Finding 2. Reporting of Apparent Independent Expenditures

Summary

During audit fieldwork, the Audit staff reviewed operating expenditures totaling \$357,895 that CRC disclosed on Schedule B, Line 21b (Operating Expenditures) that appeared to be direct mail or media-related independent expenditures that should have been disclosed on Schedule E (Itemized Independent Expenditures).

Additionally, of the \$357,895 appeared to be independent expenditures, CRC did not provide sufficient documentation pertaining to dissemination dates to verify whether 24/48-hour reports were required to be filed for the apparent independent expenditures totaling \$203,995. CRC also did not provide invoices associated with 77 direct mail communications that contained express advocacy as defined under 11 CFR 100.22 (a) or (b).

In response to the Interim Audit Report recommendation, CRC stated it disagreed with the recommendation. CRC reiterated its belief that the communications at issue were not reportable as independent expenditures because they were subject to the volunteer material exemption. CRC further stated it has provided all such documentation in its possession to substantiate application of the volunteer material exemption.

The Audit staff reexamined the documentation provided during fieldwork related to the volunteer materials exemption for specific communications totaling \$93,090 and determined the disbursements were not independent expenditures. For the remaining communications (consisting of \$110,905 and 77 mailers with no invoices) that CRC claims the volunteer materials exemptions is applicable, the Audit staff again recommends that CRC provide further evidence to support the application of the volunteer materials exemption to the specific communications involved. The Audit staff considered the disbursements for radio advertisements for \$153,900 to be independent expenditures that also required filing of 24-hour reports totaling \$32,164.

After Audit fieldwork, CRC submitted four new direct mail communications and two new invoices which associated some of the direct mail communications to the invoices not previously provided. This new documentation increased the total amount of independent expenditures to \$931,594 and reduced the number of direct mailers containing express advocacy that did not have associated invoices to 68. No additional volunteer materials exemption documentation was provided.

The Commission's approved finding was subject to the following amendments. The Commission approved a finding that CRC failed to properly disclose independent expenditures totaling at least \$694,682. The Commission further approved a finding that, of the 68 mailers not correlated with invoices, CRC failed to properly disclose independent expenditures for at least 51 direct mailers. Finally, the Commission approved a finding that CRC failed to file 24/48-hour reports for independent

expenditures totaling at least \$694,682 and at least 51 mailers for which the Commission does not have invoices.

Legal Standard

A. Definition of Independent Expenditures. An independent expenditure is an expenditure made for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party or its agents.

A clearly identified candidate is one whose name, nickname, photograph or drawing appears, or whose identity is apparent through unambiguous reference, such as "your Congressman," or through an unambiguous reference to his or her status as a candidate, such as "the Democratic presidential nominee" or "Republican candidate for Senate in this state."

Expressly advocating means any communication that:

- Uses phrases such as "vote for the President" or "re-elect your Congressman" or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge election or defeat of one or more clearly identified candidates; or
 - When taken as a whole and with limited references to external events, such as proximity to the election, could be interpreted by a reasonable person only as advocating the election or defeat of one or more clearly identified candidates.
- 11 CFR §§100.16(a), 100.17 and 100.22.

B. Disclosure Requirements – General Guidelines. An independent expenditure shall be reported on Schedule E if, when added to other independent expenditures made to the same payee during the same calendar year, it exceeds \$200. Independent expenditures made (i.e., publicly disseminated) prior to payment should be disclosed as memo entries on Schedule E and as a debt on Schedule D. Independent expenditures of \$200 or less need not be itemized, though the committee must report the total of those expenditures on line (b) on Schedule E. 11 CFR §§104.3(b)(3)(vii), 104.4(a) and 104.11.

C. Last-Minute Independent Expenditure Reports (24-Hour Reports). Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election, must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour report is required each time additional independent expenditures aggregate \$1,000 or more. The date that a communication is publicly disseminated serves as the date that the committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 CFR §§104.4(f) and 104.5(g)(2).

D. Independent Expenditure Reports (48-Hour Reports). Any independent expenditures aggregating \$10,000 or more with respect to any given election, at any time during a calendar year, up to and including the 20th day before an election, must be

disclosed within 48 hours each time the expenditures aggregate \$10,000 or more. The reports must be filed with the Commission within 48 hours after the expenditure is made. 11 CFR §§104.4(f) and 104.5(g)(1).

E. Formal Requirements Regarding Reports and Statements. Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).

F. Volunteer Activity. The payment by a state committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution, provided that the following conditions are met:

1. Such payment is not for cost incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising. The term direct mail means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.
2. The portion of the cost of such materials allocable to Federal candidates must be paid from contributions subject to the limitations and prohibitions of the Act.
3. Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate for Federal office.
4. Such materials are distributed by volunteers and not by commercial or for-profit operations.
5. If made by a political committee, such payments shall be reported by the political committee as a disbursement in accordance with 11 CFR §104.3 but need not be allocated to specific candidates in committee reports.
6. The exemption is not applicable to campaign materials purchased by the national party committees. 11 CFR §100.87 (a), (b), (c), (d), (e) and (g) and 11 CFR §100.147 (a), (b), (c), (d), (e) and (g).

Facts and Analysis

A. Reporting of Apparent Independent Expenditures

1. Facts

During audit fieldwork, the Audit staff reviewed disbursements to ensure proper reporting. The Audit staff noted that CRC did not disclose any independent expenditures on Schedule E, however, made apparent media-related expenditures totaling \$357,895 and disclosed them as operating expenditures. These communications, as well as others that are not associated with invoices, were identified as possible independent expenditures. A breakdown analysis of these expenditures is as follows:

a. Independent Expenditures Reported as Operating Expenditures (Associated Invoice Provided)

CRC made nine apparent independent expenditures totaling \$357,895 that were documented as follows:

- i. CRC made six disbursements for apparent independent expenditures for direct mail totaling \$203,995 for which it provided a copy of the direct mailer with an associated invoice. According to the Audit staff, each of these direct mailers contained language expressly advocating the election or defeat of a clearly identified candidate as defined under 11 CFR §100.22(a).
- ii. CRC made three disbursements for apparent independent expenditures for radio ads totaling \$153,900 for which it provided supporting documentation such as payment reconciliations, airing dates, scripts and audio files. The beginning of one of the audio files included the voice of an opposition federal candidate. Based upon this portion of the audio file, and the associated script, it appeared this radio ad expressly advocated the election or defeat of a clearly identified candidate as defined under 11 CFR 100.22(b).

b. Independent Expenditures Reported as Operating Expenditures (No Invoice Associated)

CRC provided 77 different direct mail communications that contained express advocacy, as defined under 11 CFR 100.22(a) or (b). The communications are as follows:

- i. 72 direct mail communications contained language expressly advocating the election or defeat of clearly identified candidates, as defined under 11 CFR 100.22(a).
- ii. Five direct mail communications contained language that encouraged the reader to vote for Republicans and help repeal "Obamacare", with various reasons why Obamacare was bad for Colorado and/or America's economy. Based on the definition of express advocacy under 11 CFR 100.22(b), these communications could only be interpreted by a reasonable person as advocating the election or defeat of clearly identified candidates.

CRC did not provide sufficient information to allow each of the 77 communications to be associated with an invoice. Without this additional information, the Audit staff is unable to calculate the disbursement amount for each communication. (See Finding 3.)

c. Volunteer Material Exemption

In response to the Audit staff's request during fieldwork for documentation to support that volunteers participated in exempt activity,² CRC provided forms signed by 22 different mail processing volunteers. These forms reflected the volunteer's name, site location, and on most forms, the date. The mail piece section was left blank on all forms with one exception, in which a candidate's last name was specified. Based on the dates on the forms, it appeared most of this volunteer activity occurred immediately prior to the 2012 General Election.

The Commission has addressed the applicability of the volunteer materials exemption in the Final Audit Reports of the Arizona Republican Party, the Democratic Executive Committee of Florida, and the Tennessee Republican Party. In these reports, the Commission recognized a lack of clarity regarding the application of the volunteer materials exemption. The Commission had attempted to formulate a consensus policy regarding what constitutes substantial volunteer involvement for the purpose of applying the exemption,³ but this was never achieved. Since a lack of clarity exists concerning the application of the volunteer materials exemption, it follows that the type and amount of documentation needed to support volunteer involvement is also unclear.

In view of the uncertainty regarding the amount of volunteer involvement needed to qualify for the volunteer materials exemption, as well as the amount of documentation required to support such an exemption, the Audit staff recommended at the conclusion of fieldwork that CRC provide more detailed information and documentation for any volunteer involvement associated with each mailer.

2. Interim Audit Report and Audit Division Recommendation

At the exit conference, the Audit staff presented the schedule of disclosure errors for independent expenditures. CRC representatives provided a listing of additional invoice numbers and invoice amounts in response to the exit conference but did not provide any copies of communications or further information that would allow the available invoices to be associated with the copies of the communications.

The Interim Audit Report recommended that CRC:

- Provide additional invoices and/or information associating the 77 direct mail communications containing express advocacy with an invoice; and
- Provide documentation and evidence that apparent independent expenditures totaling \$357,895 and the 77 direct mail communications containing express advocacy, did not require reporting as independent expenditures. Evidence

² CRC has not claimed that any exemptions apply with respect to any expenditures discussed above such as, for example, volunteer material exemption, slate cards exemptions, etc.

³ Proposed Interim Enforcement Policy, Agenda document No. 10-16.

should have included any documentation such as volunteer timesheets and photographs to support the involvement of volunteers in the processing or distribution of the communications noted above.

- Absent such evidence, CRC should have amended its reports to disclose these disbursements as independent expenditures on Schedule E and submit revised procedures for reporting independent expenditures.

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report recommendation, CRC stated it disagreed with the recommendation. CRC reiterated its belief that the communications at issue were not reportable as independent expenditures because they were subject to the volunteer material exemption. CRC further stated it has provided all documentation in its possession substantiating volunteer involvement including the volunteer names, the location where the work was done and the date of the volunteer involvement. CRC stated it had never been requested to provide volunteer timesheets and photographs, and that it did not collect such information. CRC further stated that "...it has provided enough information to substantiate application of the volunteer material exemption" and that it would not make any amendments to disclose the disbursements in question as independent expenditures.

The Audit staff maintains that the \$153,900 spent on radio communications should be reported as independent expenditures since the volunteer materials exemptions does not apply to those communications.

With respect to the 22 volunteer forms signed by volunteers on direct mailers of \$93,090, the Audit staff has reexamined the documentation and believes the documentation provided in support of the volunteer materials exemption is consistent with such evidence provided in past audits. As a result, these disbursements are not considered independent expenditures. For the remaining communications (consisting of \$110,905 and 77 direct mailers without invoices) that CRC claims the volunteer materials exemptions is applicable, the Audit staff again recommends that CRC provide further evidence to support the application of the volunteer materials exemption to the specific communications involved. Such evidence will assist the Commission in determining if the volunteer materials exemption is applicable to these communications.

4. Draft Final Audit Report

The Draft Final Audit Report reiterated that CRC provide further evidence to support the application of the volunteer materials exemption to the specific communications involved. Such evidence would have assisted the Commission in determining if the volunteer materials exemption is applicable to these communications.

5. Committee Response to the Draft Final Audit Report

In its response to the Draft Final Audit Report, CRC stated it partially disagreed with the Audit staff's recommendation and continued to claim that the communications at issue were not reportable as independent expenditures because they were subject to

the volunteer materials exemption. CRC stated it believed that it previously provided all necessary documentation.

On March 20, 2017, CRC submitted 121 pages of additional documentation that included four new direct mail communications and two new invoices. The documentation also associated some of the direct mail communications to the invoices that had been provided during fieldwork. This new documentation increased the total amount of independent expenditures to \$931,594 and reduced the number of direct mailers containing express advocacy that did not have associated invoices to 68. No additional volunteer materials exemption documentation was provided.

6. Audit Hearing

CRC did not address this finding during the Audit hearing.

Commission Conclusion

On May 25, 2017, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CRC failed to properly disclose independent expenditures totaling \$931,594. Further, the Audit staff recommended that the Commission find that CRC failed to properly disclose independent expenditures associated with 68 direct mailers which contained expressed advocacy.

The Commission approved the Audit staff's recommendation with the following amendments. The Commission found that CRC failed to properly disclose independent expenditures totaling at least \$694,682⁴ and, that of the 68 direct mailers not correlated with invoices, CRC failed to properly disclose independent expenditures for at least 51⁵ direct mailers.

B. Failure to File 24/48-Hour Reports for Apparent Independent Expenditures

1. Facts

In addition to not reporting any independent expenditures during the audit period, CRC also did not file 24 or 48-hour reports for any independent expenditures. Therefore, the apparent independent expenditures identified above by the Audit staff may also have required such a filing.

2. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided CRC with a schedule of possible undisclosed 24/48-hour reports. CRC representatives did not offer any comments regarding this matter.

⁴ This number reflects further reduction of \$236,912 which resulted from the removal of five direct mail communications totaling \$115,176 and three radio ads totaling \$121,736 due to a lack of consensus as to whether these ads constituted express advocacy. $\$694,682 = \$931,594 - \$236,912$. All numbers rounded to the nearest dollar.

⁵ The Commission removed 17 additional ads with no associated invoices due to the lack of consensus as to whether these ads constitute an express advocacy. $51 = 68 - 17$.

The Interim Audit Report recommended that, absent documentation and evidence that apparent independent expenditures totaling \$357,895 and the 77 direct mailer communications containing express advocacy did not require reporting as independent expenditures (per Part A above), CRC provide documentation to support the date of public dissemination for each communication to determine whether a filing of a 24/48-hour report was required.

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report recommendation, CRC stated it disagreed with the recommendation. CRC reiterated its belief that the communications at issue were not reportable as independent expenditures because they were subject to the volunteer material exemption. For that reason, CRC did not believe any 24 or 48-hour reports were necessary for these disbursements.

The Audit staff maintains the \$153,900 in radio advertisements are independent expenditures that required 24-hour reports totaling \$32,164.

The Audit staff maintained that unless further evidence of the volunteer involvement with the specific communications is provided, the Commission may have concluded the remaining direct mailers totaling \$110,905 as well as the 77 direct mailers without invoices may be reportable as independent expenditures and may require 24 or 48-hour reports.

4. Draft Final Audit Report

The Draft Final Audit Report reiterated that \$153,900 in radio advertisements were independent expenditures that required 24-hour reports totaling \$32,164, and, that unless further evidence of the volunteer involvement with the specific communications is provided, the Commission may determine that the remaining direct mailers totaling \$110,905 as well as the 77 direct mailers without invoices might be reportable as independent expenditures and may require 24 or 48-hour reports.

5. Committee Response to the Draft Final Audit Report

In its response to the Draft Final Audit Report, CRC stated it would not make any amendments to disclose the disbursements in question as independent expenditures and continued to believe that 24/48-hour reports were not necessary.

On March 20, 2017, CRC submitted 121 pages of additional documentation that included four new direct mail communications and two new invoices. The documentation also associated some of the direct mail communications to the invoices that had been provided during fieldwork. This new documentation increased the total amount of independent expenditures to \$931,594 and reduced the number of direct mailers containing express advocacy that did not have associated invoices to 68. No additional volunteer materials exemption documentation was provided.

6. Audit Hearing

CRC did not address this finding during the Audit hearing.

Commission Conclusion

On May 25, 2017, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CRC did not file 24/48-hour reports totaling \$32,164 for apparent independent expenditures totaling \$153,000. Further, the Audit staff recommended that the Commission find that CRC did not file 24/48-hour reports for additional apparent independent expenditures totaling \$931,594 as well as 68 mailers with no invoices.

The Commission approved the Audit staff's recommendation with the following amendment. The Commission found that CRC failed to file 24/48-hour reports for independent expenditures totaling at least \$694,682 and at least 51 direct mailers.

Finding 4. Failure to Itemize Debts and Obligations

Summary

During audit fieldwork, the Audit staff noted that CRC failed to disclose debts and obligations owed to three vendors totaling \$235,968. In response to the Interim Audit Report recommendation, CRC agreed to amend its disclosure reports for the applicable period and disclose the debt owed to CRC's former legal counsel. CRC stated it would not amend its reports to disclose the debt owed to its former get-out-the-vote (GOTV) vendor due to the termination of the contract. CRC subsequently filed amended reports to disclose debt owed to the two non-GOTV vendors. Absent the filing of amended reports to include the debt owed to the GOTV vendor, the Audit staff considered the matter unresolved. CRC requested a hearing before the Commission to discuss this matter.

The Commission approved a finding that CRC failed to itemize debts and obligations totaling \$235,968.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee until those debts are extinguished. 52 USC §30104(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

B. Separate Schedules. A political committee must file separate schedules for debts owed by or to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

C. Itemizing Debts and Obligations.

- A debt of \$500 or less, not including rent, salary or other regularly reoccurring administrative expenses, must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it on the next regularly scheduled report.
- Regularly recurring administrative expenses, like rent, do not have to be treated as debts until payment is due.
- A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

D. Disputed Debts. A disputed debt is a bona fide disagreement between the creditor and the committee as to the existence of a debt or the amount owed by the committee. Until the creditor and committee resolve the dispute (assuming the creditor did provide something of value), the committee must disclose:

- The amount the committee admits it owes;
- The amount the creditor claims is owed; and
- Any amounts the committee has paid the creditor. 11 CFR §116.10.

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff used available disbursement records to reconcile the accounts⁶ of three CRC vendors. This review identified debts owed to these three vendors totaling \$235,968 that should have been disclosed on Schedule D.⁷

One of the vendors provided legal services and had debt outstanding at the end of four reporting periods totaling \$100,197, including an outstanding balance at the end of the audit period of \$13,541. A second vendor that provided accounting services had an outstanding balance at the end of one reporting period for \$2,284, but did not have an outstanding balance at the end of the audit period. The last vendor had debt outstanding at the end of the audit period of \$133,487 that pertained to the unpaid balance of a contract for a GOTV program.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed these disclosure errors with CRC representatives and provided them with schedules detailing the debts that were not reported. CRC representatives disagreed with the Audit staff's determination with respect to the disclosure of debts owed to the vendor that provided legal services. Subsequent to the exit conference, CRC requested the consideration of a legal question by the Commission regarding the disclosure of the debt for legal services prior to

⁶ The reconciliation consisted of calculating invoiced and paid amounts for individual reporting periods in the 2011 – 2012 election cycle. The Audit staff then determined whether outstanding debts were correctly disclosed on Schedule D. Each debt amount was counted once, even if it required disclosure over multiple reporting periods.

⁷ There was no debt reported during the audit period for any of these three vendors.

payment. CRC contended the disclosure would violate confidential attorney/client privileges.⁸ CRC representatives also disagreed with the requirement to disclose debt for the GOTV program, stating that CRC had terminated the contract before the vendor provided all contracted services. CRC representatives provided a copy of an unsigned letter, sent by CRC to the GOTV program vendor, which advised this vendor of an immediate termination of the contract.

Based on the terms of contract, its termination does not release CRC from the obligation to make pro rata payments of fees for the services provided by the vendor. CRC stated that it terminated the contract before the vendor provided *all* of the contracted services which suggests that the vendor provided at least *some* of the contracted services before the termination of the contract. Available disbursement documentation provided by CRC did not indicate as to whether CRC paid the vendor for services that the vendor provided to CRC prior to the termination.

The Interim Audit Report recommended that CRC provide documentation demonstrating that expenditures totaling \$235,968 did not require reporting on Schedule D. As for the GOTV program vendor, the Interim Audit Report further recommended that CRC provide information and documentation relating to debt remaining for any services that the vendor provided before the termination of the contract. Since the termination letter was not signed, CRC should have submitted documentation such as a signed letter to the vendor, e-mails or telephone logs regarding the termination. Absent such documentation, the Interim Audit Report recommended that CRC amend its reports to disclose these debts and obligations.

C. Committee Response to the Interim Audit Report

In response to the Interim Audit Report recommendations, CRC stated that, given the Commission's determination that the amounts owed to CRC's former counsel were not privileged from disclosure, CRC agreed to amend its disclosure reports for the applicable period and disclose the debt owed to CRC's former legal counsel. CRC stated it would not amend its reports to disclose the debt owed to its former GOTV vendor due to the termination of the contract. CRC provided the previously submitted unsigned termination letter but did not submit any documentation related to debt for any services prior to termination of the contract. CRC subsequently filed amended reports to disclose debt owed to the two non-GOTV vendors. Absent the filing of amended reports to include the \$133,487 debt owed to the GOTV vendor, the Audit staff considered the matter unresolved.

D. Draft Final Audit Report

The Draft Final Audit Report concluded that absent the filing of amended reports to include the \$133,487 debt owed to the GOTV vendor, the Audit staff considered the matter unresolved.

⁸ See Part I Background, Commission Guidance at p. 1.

E. Committee Response to the Draft Final Audit Report

CRC responded to the Draft Final Audit Report by requesting a hearing on this matter.

CRC stated that:

1. It has appropriately declined to amend its reports to the amounts allegedly owed to its former GOTV vendor, as that the contract was terminated and the amounts were disputed by CRC.
2. These amounts were never paid and the statute of limitations for any breach of the agreement has run out. CRC therefore believes it cannot amend its reports as any amounts allegedly owed to the vendor were and are not properly debt.

F. Audit Hearing

During the Audit hearing, CRC reiterated its position that it would not amend its reports due to the termination of contract. CRC argued that the statute of limitation under the Colorado law has expired. CRC did not provide any further documentation, nor any new legal arguments.

Commission Conclusion

On May 25, 2017, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CRC failed to itemize debts and obligations totaling \$235,968.

The Commission approved the Audit staff's recommendation.

Colorado Republican Committee**Finding 1B - Misstatement of Financial Activity - Original Reports Filed**

Source: Audit staff generated - see indexing below

Purpose: Supporting schedule for referral to ADR

Prepared by: Mary Moss, 7/26/2017

Colorado Republican Party**Schedule of Review of Increased Activity**

	Receipts		Index
	2011	2012	
Correct Reportable per Bank	717,741	9,889,745	B.1.1
Schedule of Reported Activity (Column A) from			
"Original Reports"	719,654	9,084,735	A.5.1
Difference	-1,912	805,010	as calculated
Net Amount of Increase for cycle (Differences for			
Each Year Added Together)	803,097		as calculated
Percent Increase	58%		as calculated
Threshold Exceeded (Yes or No)	YES		per MT

	Disbursements		Index
	2011	2012	
Correct Reportable per Bank	673,321	9,567,886	B.1.1.
Schedule of Reported Activity (Column A) from			
"Original Reports"	634,429	8,969,090	A.5.1
Difference	38,892	598,796	as calculated
Net Amount of Increase for cycle (Differences for			
Each Year Added Together)	637,688		as calculated
Percent Increase	95%		as calculated
Threshold Exceeded (Yes or No)	YES		per MT

Colorado Republican Committee

Finding 2B - 24-48 hour reports

Source: . See indexed cells below.

Purpose: Supporting schedule for referral to OGC

Prepared by: Mary Moss, 7/26/2017

Vendor	Type	Date: Disbursement Payment Date	Disbursement (IE) Amount
Majority Strategies	Direct Mail	9/23/2012	\$ 32,144.79
Majority Strategies	Direct Mail	9/25/2012	\$ 48,932.00
Majority Strategies	Direct Mail	9/29/2012	\$ 471.79
Majority Strategies	Direct Mail	9/29/2012	\$ 2,959.25
Majority Strategies	Direct Mail	10/2/2012	\$ 62,803.10
Majority Strategies	Direct Mail	10/3/2012	\$ 28,317.69
Majority Strategies	Direct Mail	10/4/2012	\$ 71,991.43
Majority Strategies	Direct Mail	10/7/2012	\$ 11,688.37
Majority Strategies	Direct Mail	10/7/2012	\$ 832.28
Majority Strategies	Direct Mail	10/8/2012	\$ 27,837.53
Majority Strategies	Direct Mail	10/9/2012	\$ 26,234.00
Majority Strategies	Direct Mail	10/9/2012	\$ 33,562.14
Majority Strategies	Direct Mail	10/9/2012	\$ 2,959.25
Majority Strategies	Direct Mail	10/11/2012	\$ 46,762.53
Majority Strategies	Direct Mail	10/15/2012	\$ 60,072.30
Majority Strategies	Direct Mail	10/15/2012	\$ 68,345.52
Majority Strategies	Direct Mail	10/15/2012	\$ 18,236.99
Majority Strategies	Direct Mail	10/16/2012	\$ 28,155.74
Majority Strategies	Direct Mail	10/02/2012	\$ 26,422.94
Majority Strategies	Direct Mail	10/09/2012	\$ 33,787.59
Majority Strategies	Direct Mail	10/27/2012	\$ 30,000.00
Mentzer Media	Radio Ads	10/22/2012	\$ 1,775.88
Mentzer Media	Radio Ads	10/23/2012	\$ 1,775.88
Mentzer Media	Radio Ads	10/24/2012	\$ 1,775.88
Mentzer Media	Radio Ads	10/25/2012	\$ 1,775.88
Mentzer Media	Radio Ads	10/26/2012	\$ 1,775.88
Mentzer Media	Radio Ads	10/27/2012	\$ 1,775.88
Mentzer Media	Radio Ads	10/28/2012	\$ 1,775.88
Mentzer Media	Radio Ads	10/29/2012	\$ 2,819.02
Mentzer Media	Radio Ads	10/30/2012	\$ 2,819.02
Mentzer Media	Radio Ads	10/31/2012	\$ 2,819.02
Mentzer Media	Radio Ads	11/1/2012	\$ 2,819.02

Mentzer Media	Radio Ads	11/2/2012	\$ 2,819.02
Mentzer Media	Radio Ads	11/3/2012	\$ 2,819.02
Mentzer Media	Radio Ads	11/4/2012	\$ 2,819.02
			\$ 694,681.56

11/15/2012 11:15:00

24/48 report filed by Committee	SOL 1 Years	SOL 2 Years	SOL 3 Years	SOL 4 Years	SOL 5 Years
No	9/23/2013	9/23/2014	9/23/2015	9/23/2016	9/23/2017
No	9/25/2013	9/25/2014	9/25/2015	9/25/2016	9/25/2017
No	9/29/2013	9/29/2014	9/29/2015	9/29/2016	9/29/2017
No	9/29/2013	9/29/2014	9/29/2015	9/29/2016	9/29/2017
No	10/2/2013	10/2/2014	10/2/2015	10/2/2016	10/2/2017
No	10/3/2013	10/3/2014	10/3/2015	10/3/2016	10/3/2017
No	10/4/2013	10/4/2014	10/4/2015	10/4/2016	10/4/2017
No	10/7/2013	10/7/2014	10/7/2015	10/7/2016	10/7/2017
No	10/7/2013	10/7/2014	10/7/2015	10/7/2016	10/7/2017
No	10/8/2013	10/8/2014	10/8/2015	10/8/2016	10/8/2017
No	10/9/2013	10/9/2014	10/9/2015	10/9/2016	10/9/2017
No	10/9/2013	10/9/2014	10/9/2015	10/9/2016	10/9/2017
No	10/9/2013	10/9/2014	10/9/2015	10/9/2016	10/9/2017
No	10/11/2013	10/11/2014	10/11/2015	10/11/2016	10/11/2017
No	10/15/2013	10/15/2014	10/15/2015	10/15/2016	10/15/2017
No	10/15/2013	10/15/2014	10/15/2015	10/15/2016	10/15/2017
No	10/15/2013	10/15/2014	10/15/2015	10/15/2016	10/15/2017
No	10/16/2013	10/16/2014	10/16/2015	10/16/2016	10/16/2017
No	10/2/2013	10/2/2014	10/2/2015	10/2/2016	10/2/2017
No	10/9/2013	10/9/2014	10/9/2015	10/9/2016	10/9/2017
No	10/27/2013	10/27/2014	10/27/2015	10/27/2016	10/27/2017
No	10/22/2013	10/22/2014	10/22/2015	10/22/2016	10/22/2017
No	10/23/2013	10/23/2014	10/23/2015	10/23/2016	10/23/2017
No	10/24/2013	10/24/2014	10/24/2015	10/24/2016	10/24/2017
No	10/25/2013	10/25/2014	10/25/2015	10/25/2016	10/25/2017
No	10/26/2013	10/26/2014	10/26/2015	10/26/2016	10/26/2017
No	10/27/2013	10/27/2014	10/27/2015	10/27/2016	10/27/2017
No	10/28/2013	10/28/2014	10/28/2015	10/28/2016	10/28/2017
No	10/29/2013	10/29/2014	10/29/2015	10/29/2016	10/29/2017
No	10/30/2013	10/30/2014	10/30/2015	10/30/2016	10/30/2017
No	10/31/2013	10/31/2014	10/31/2015	10/31/2016	10/31/2017
No	11/1/2013	11/1/2014	11/1/2015	11/1/2016	11/1/2017

No	11/2/2013	11/2/2014	11/2/2015	11/2/2016	11/2/2017
No	11/3/2013	11/3/2014	11/3/2015	11/3/2016	11/3/2017
No	11/4/2013	11/4/2014	11/4/2015	11/4/2016	11/4/2017

Totals

120077-1722250001

Referable Amount Dropped	Referable Amount Still Viable at August 2017	Index
\$ -	\$ 32,144.79	Sheet 1 - Romney
\$ -	\$ 48,932.00	Sheet 1 - Romney
\$ -	\$ 471.79	Sheet 1 - Romney
\$ -	\$ 2,959.25	Sheet 1 - Romney
\$ -	\$ 62,803.10	Sheet 1 - Romney
\$ -	\$ 28,317.69	Sheet 1 - Romney
\$ -	\$ 71,991.43	Sheet 1 - Romney
\$ -	\$ 11,688.37	Sheet 1 - Romney
\$ -	\$ 832.28	Sheet 1 - Romney
\$ -	\$ 27,837.53	Sheet 1 - Romney
\$ -	\$ 26,234.00	Sheet 1 - Romney
\$ -	\$ 33,562.14	Sheet 1 - Romney
\$ -	\$ 2,959.25	Sheet 1 - Romney
\$ -	\$ 46,762.53	Sheet 1 - Romney
\$ -	\$ 60,072.30	Sheet 1 - Romney
\$ -	\$ 68,345.52	Sheet 1 - Romney
\$ -	\$ 18,236.99	Sheet 1 - Romney
\$ -	\$ 28,155.74	Sheet 1 - Romney
\$ -	\$ 26,422.94	Sheet 1- Coffman_Tipton
\$ -	\$ 33,787.59	Sheet 1- Coffman_Tipton
\$ -	\$ 30,000.00	Sheet 1- Coffman_Tipton
\$ -	\$ 1,775.88	Sheet 2
\$ -	\$ 1,775.88	Sheet 2
\$ -	\$ 1,775.88	Sheet 2
\$ -	\$ 1,775.88	Sheet 2
\$ -	\$ 1,775.88	Sheet 2
\$ -	\$ 1,775.88	Sheet 2
\$ -	\$ 1,775.88	Sheet 2
\$ -	\$ 2,819.02	Sheet 2
\$ -	\$ 2,819.02	Sheet 2
\$ -	\$ 2,819.02	Sheet 2
\$ -	\$ 2,819.02	Sheet 2

\$	\$	2,819.02	Sheet 2
\$	\$	2,819.02	Sheet 2
\$	\$	2,819.02	Sheet 2
\$	\$	694,681.56	\$694,681.56

2007-07-23-2008

Colorado Republican Committee
 Finding 4 - Debt Reporting
 Source: Audit staff generated - see indexing below
 Purpose: Supporting schedule for referral to OGC
 Prepared by: Mary Moss, 7/23/2017

TYPE	Name	Disbursement Date	Item	Audit Debit Amount	Audit Credit Amount	Unreconciled Disbursement	Unreconciled Credit	Remarks
FFB	Strategic Allied Consulting LLC	01/06/2012	ACH	\$	140,000.00	2017 Aug		Agreement dated 01/17/2012, reflects total disburse of \$500,139 over course of contract. Total reporting period reporting required - 03/31/2012
FFB	Strategic Allied Consulting LLC	06/02/2012	22 M.	\$	378,643.10	2017 Feb	\$	CS, L Agreement few reports 2nd received per contract

Total disbursement documentation provided:

Total cost - per contract - contract dated 01/17/2012:
 Outstanding debt owed to this vendor - as of 03/31/2012

\$ 500,139.00
 \$ (133,486.09)

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